

BENJAMIN ROARK §  
v. § CIVIL ACTION NO. 5:12cv60  
REGINA FLANERY, ET AL. §

The Plaintiff Benjamin Roark, proceeding *pro se*, filed this lawsuit under Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971) complaining of alleged deprivations of his rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

The Court ordered that process be served upon the Defendants, but the service of process upon the defendant Dr. Michael Pappas was returned unexecuted because the address provided was no longer valid and the forwarding address had expired. The Court gave Roark time to provide another address for Dr. Pappas and Roark did so, but service upon the new address was again returned unexecuted.

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unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

**ORDERED** that the Report of the Magistrate Judge (docket no. 107) is hereby **ADOPTED** as the opinion of the District Court. It is further


**ORDERED** that the Plaintiff's claim against the Defendant Dr. Michael Pappas is hereby **DISMISSED** without prejudice for failure to effect service of process. Fed. R. Civ. P. 4(m). It is further

**ORDERED** that the statute of limitations on Roark's claim against Dr. Pappas is hereby **SUSPENDED** for a period of sixty days following entry of final judgment in the case. The suspension of this limitation period shall begin as of the date of the filing of the present lawsuit and have no effect upon any claim which was already barred by limitations at the time that the present lawsuit was filed. It is further

**ORDERED** that Dr. Pappas is hereby **DISMISSED** as a party to this lawsuit. The dismissal of Dr. Pappas shall have no effect upon the remainder of the Plaintiff's claims in this case.

**It is SO ORDERED.**

**SIGNED this 1st day of July, 2014.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE